

Exhibit A

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO;
AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL EMPLOYEES,
AFL-CIO; et al.,

Plaintiffs,

v.

UNITED STATES OFFICE OF PERSONNEL
MANAGEMENT, et al.,

Defendants.

Case No. 3:25-cv-01780-WHA

DECLARATION OF KORY BLAKE

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I, Kory Blake, declare as follows:

1. I am over 18 years of age and competent to give this declaration. This declaration is based on my personal knowledge, information, and belief.

2. I am the Area Field Services Director (“AFSD”) for the Eastern Region in the Organizing and Field Services department of the American Federation of State, County and Municipal Employees, AFL-CIO (“AFSCME”). As AFSD, I am responsible for providing guidance and leadership to the efforts of the International Union and affiliates in mobilizing the membership in support of the union’s programs. This includes coordinating and allocating AFSCME resources to affiliates within my assigned region, identifying AFSCME programs and services to meet the needs of affiliates, and engaging directly with council or local union leaders and members on organizing, contract and political campaigns. I am assigned to support AFSCME affiliates located in Washington, D.C., Maryland, and Virginia, including coordinating support and resources to AFSCME’s federal government employee affiliates and members. I have been an AFSD for AFSCME since 2020.

3. AFSCME is a national labor organization and unincorporated membership association headquartered at 1625 L Street N.W., Washington, D.C. 20036. AFSCME also maintains offices in the cities of Los Angeles, Oakland and Sacramento, California. AFSCME is the largest trade union of public employees in the United States, with around 1.4 million members organized into approximately 3,400 local unions, 58 councils and other affiliates, including retiree councils and chapters, in 46 states, including California, the District of Columbia, and Puerto Rico. AFSCME has approximately 185,000 members in the State of California. AFSCME, through its affiliate District Council 20 and its 18 constituent federal government local unions, represents more than 6,000 federal civilian employees in agencies and departments across the federal government.

4. AFSCME members include nurses, corrections officers, childcare providers, emergency medical technicians, sanitation workers, school bus drivers, civil engineers, policy analysts, and more.

Declaration of Kory Blake, No. 3:25-cv-01780-WHA

1 Its members working for the federal government work to ensure aviation safety at the Federal Aviation
2 Administration (FAA), criminal justice through the Department of Justice (DOJ), food safety and
3 facilitation of international trade for U.S. farmers through the U.S. Department of Agriculture (USDA),
4 civic engagement through service and volunteering through AmeriCorps and the Peace Corps, and
5 more.

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7 5. AFSCME organizes employees and advocates for fairness in the workplace, better
8 wages and working conditions, excellence in public services, and prosperity and opportunity for all
9 working families. AFSCME's core functions include providing support, guidance, and resources to our
10 affiliates, some of which are the officially recognized exclusive representatives of federal employees
11 in various bargaining units.

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13 6. On February 14, 2025, AFSCME bargaining unit members who are probationary federal
14 employees began notifying the union that they were being terminated, effective immediately.

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16 7. At the FAA, for example, affected employees began notifying the union by phone and
17 email messages that the FAA sent these employees an email message with the subject "Notification of
18 Termination During Probationary Period." This email informed these employees that the FAA was
19 terminating their employment, effective February 14, 2025. The email to the affected probationary
20 employees explained to the employees that they were being removed from their position during the
21 "probationary/trial period." The email states: "based on your performance, you have not demonstrated
22 that your further employment at the DOT FAA would be in the public interest." A true and correct
23 copy of an exemplar of one of these notices is attached hereto as Exhibit 1.

24
25 8. Similarly, at the USDA, bargaining unit members who are probationary employees
26 began notifying the union by phone, email and text messages on February 14, 2025 that the USDA sent
27 these employees emails containing, as an attachment or within the body of the email, a letter to each
28 employee terminating their employment, effective February 13, 2025, at 7:00 p.m. eastern time. The

1 letter to employees, titled “Notification of Termination During Probationary Period,” explained to the
2 affected probationary employees that they were being removed from their position during the
3 “probationary/trial period.” The letter further states: “based on your performance, further employment
4 at the Agency would be in the public interest.” A true and correct copy of an exemplar of one of these
5 notices is attached hereto as Exhibit 2.
6

7 9. In my position as AFSD, I have heard from or am aware of AFSCME members who
8 have been terminated as probationary employees. I am also aware of the mass terminations of federal
9 probationary employees across the federal government.

10 10. As of the time of this declaration, AFSCME has confirmed that at least 79 probationary
11 federal employees who are represented by AFSCME have been terminated by the FAA, USDA, and
12 the DOJ. At the FAA, this includes employees who were Management and Program Analysts in Facility
13 Security, Data Scientists in Safety Analysis, Regulation Attorneys, Enforcement Attorneys,
14 Economists in the Forecast and Performance Analysis Division, Regulation Analysts in various
15 divisions, Computer Scientists, and others. At the USDA, this includes employees working for the
16 USDA’s Foreign Agricultural Service who were International Economists, International Trade
17 Specialists, Nutritionists, Trade Policy Analysts, International Science Advisors, Technical Assistance
18 Specialists, International Market Specialists, and others. At the DOJ, this includes employees who were
19 Community Outreach Specialists and Legal Assistants.
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22 11. AFSCME is still unaware of the full scope of the terminations of AFSCME members
23 because some federal agencies have not provided the union lists of the affected bargaining employees.

24 12. The mass termination of probationary employees in the federal government has harmed
25 AFSCME, its members, and the public by impeding the crucial public services provided by these
26 members
27
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1 13. Immediately following the terminations, bargaining unit members reached out to
2 AFSCME and our federal government employee affiliates en masse to request assistance and provide
3 clarifying information. AFSCME has received hundreds of phone calls, emails, or other
4 communications directly to AFSCME's website from affected members or other concerned federal
5 employee members. This includes affected probationary employees, but also other non-probationary
6 bargaining unit members who are fearful that they will be terminated next. This flood of member
7 inquiries and requests for assistance required AFSCME to quickly divert resources and staff from other
8 work to support our affected members and affiliates.
9

10 14. AFSCME's probationary employee members were blindsided by the terminations and
11 their employing agencies did not notify their local unions of this drastic employment action. This lack
12 of transparency from federal agencies made it impossible for employees to prepare for such a
13 devastating employment action and difficult for AFSCME to quickly respond to our members'
14 concerns or provide guidance and information to the affected employees.
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16 15. AFSCME has also devoted significant resources to provide assistance to our federal
17 government employee affiliates and members by directing and assigning International Union staff to
18 provide assistance, counseling, and information to our members about the mass probationary employee
19 terminations in the federal government. Since the mass terminations, affected employees are seeking
20 counseling on their rights and protections, guidance on applying for benefits such as unemployment
21 insurance or the continuation of healthcare coverage that usually comes from agencies after a
22 termination, and any clarifying information about the mass terminations because so little information
23 was shared with employees by their agencies after their terminations.
24

25 16. AFSCME has assigned several AFSCME International Union staff, including myself,
26 from various departments to address the issues arising from the mass terminations and to support our
27 members. This includes three attorneys from AFSCME's Office of the General Counsel to assess the
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1 terminations, conduct legal research on how to protect affected members' legal rights, and engage in
2 legal advocacy; staff from AFSCME's Data and Analytics department to help gather and analyze
3 member data to understand the scope of the terminations and engage in member outreach; several
4 additional staff from AFSCME's Organizing and Field Services department not normally assigned to
5 assist our federal sector affiliates who are engaging directly with our affected affiliates and members
6 to provide support and coordinate resources; staff members from AFSCME's Communications
7 department to help affiliates develop and send out communications to their membership and answer
8 media inquiries about the mass terminations affecting their members; and staff from AFSCME's
9 Federal Government Affairs department to advocate for the terminated probationary employees
10 through federal legislative efforts.
11

12 17. The AFSCME staff that has been assigned to address the mass terminations of federal
13 probationary employees have been diverted from other duties in furtherance of AFSCME's mission to
14 organize new employees and advocate for better wages and working conditions. For example, in my
15 role as AFSD, I am also responsible for supporting more than 100 other affiliates within my region in
16 Maryland, the District of Columbia and Virginia—the overwhelming majority of which exclusively
17 represent non-federal employees—but I have had to divert a significant amount of my time from my
18 otherwise-core labor relations representation and organizing work to focus on supporting our affected
19 federal employee members and affiliates to address the terminations. AFSCME attorneys have also had
20 to divert their attention from handling core representational matters on behalf of non-federal employees
21 to focus on conducting legal research and legal advocacy about the probationary employee
22 terminations. For example, three out of a total of eight attorneys in the AFSCME Office of the General
23 Counsel are spending an extensive amount of their workday addressing the terminations. One of those
24 AFSCME attorneys is assigned to support AFSCME's organizing efforts in other states but has had to
25 temporarily pause that important representation work—which is work that grows union membership--
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1 to focus on addressing the mass terminations on an almost full-time basis. AFSCME has spent hundreds
2 of staff hours on this matter since learning about the terminations from our probationary employee
3 members that they were terminated without justification.

4 18. Affected members are devastated about losing their livelihoods and are distressed about
5 how they will support themselves and their families to cover their basic needs like housing, healthcare,
6 childcare, and other necessary expenses. Many of these members had recently moved to Washington
7 D.C. at great personal expense to start their careers in the public service and are now left with a great
8 financial and emotional burden that comes with losing their jobs. Some members' physical and mental
9 health is threatened with the loss of healthcare coverage due to the terminations, including a member
10 who was diagnosed with cancer the day after being terminated. Some members are veterans who were
11 transitioning to federal service after serving in the military, and are now being terminated. Some
12 members were hired through the highly competitive Presidential Management Fellow program that
13 helps recruit future leaders in government, but were summarily terminated as probationary employees.
14 Some members sacrificed their careers in the private sector or positions as government contractors to
15 work as civilian federal employees and use their expertise for the benefit of the public, but are now left
16 without a job.

17 19. Affected employees are also very confused and anxious because the perfunctory
18 termination notices base their termination on "performance" without any specific examples or
19 individualized justifications. Not one of the notices that I have reviewed has included any mention of
20 an individualized assessment of the employee's performance, nor do they include specific examples of
21 any performance issues. In fact, many of the affected employees have indicated, and provided me
22 examples of documents evidencing, that they have received performance reviews, recent
23 commendations, or other communications from their agencies stating that their performance is
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1 outstanding or that their performance meets expectations, and that their performance has never been
2 questioned during their probationary period.

3 20. The mass terminations of federal probationary employees have also caused AFSCME
4 to lose revenue received from dues paying members because federal employee members pay their dues
5 though voluntary payroll dues deductions from their paychecks, and thus the affected members who
6 have lost their jobs will no longer be able to pay their dues to the union. This will affect AFSCME's
7 ability to provide services to its members and affiliates nationwide, since AFSCME International
8 receives a per capita share of voluntary member dues paid to AFSCME affiliate unions.
9

10 21. The injuries suffered by AFSCME and its members are ongoing or imminent and will
11 persist unless this Court intervenes.

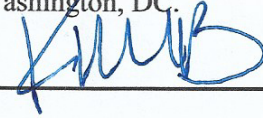
12 22. Membership in AFSCME is voluntary.

13 23. AFSCME's and its subordinate bodies' leadership is democratically elected by and from
14 among its membership.
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16 24. AFSCME's activities and staff are funded through our members' voluntary dues, which
17 are established by the AFSCME International Constitution and based on the percentage of hours
18 worked for part-time or full-time members.

19 25. If OPM had publicly disclosed its intention to order agencies to discharge probationary
20 employees en masse and put that program out to notice-and-comment rulemaking, the Union would
21 absolutely have commented. AFSCME regularly comments on rulemaking involving federal
22 employees. We would have weighed in to explain the myriad ways this program violates the law, and
23 to explain the adverse effects on government services and the federal workforce, among other
24 things. The government's failure to provide advance notice and lack of transparency prevented us from
25 performing our statutory duty.
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1 I declare under penalty of perjury under the laws of the United States that the foregoing is true
2 and correct. Executed this 22nd day of February 2025 in Washington, DC.

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EXHIBIT 1



Outlook

Notification of Termination During Probationary Period

From DOT_FAA_Probationary_Period_Notice (FAA) <ASK_AHR_EXEC_Orders@usfaa.mail.onmicrosoft.com>

Date Fri 2/14/2025 11:42 PM

To

[REDACTED]

Cc

[REDACTED]

3 attachments (532 KB)

FAA Offboarding instructions.docx; SF-8 Unemployment Compensation_0.pdf; What-Happens-to-Your-Government-Benefits-After-Separating-from-Federal-Service.pdf;

February 14, 2025

MEMORANDUM FOR [REDACTED]

SUBJECT: Notification of Termination During Probationary Period

REFERENCES: Human Resource Policy Manual (HRPM) Volume 1: Employment Policy Chapter EMP-1.4
Human Resource Policy Manual (HRPM) Volume 4: Employee Relations Policy ChapterER-4.6

I regrettably inform you that I am hereby removing you from your position with the U.S. Department of Transportation (DOT) – Federal Aviation Administration (FAA) and federal service consistent with the above references, effective February 14, 2025.

As documented on your appointment Standard Form 50 (SF-50), your appointment is subject to a probationary/trial period. The agency also informed you of this requirement in the job opportunity announcement for the position.

Guidance from the Office of Personnel Management (OPM) states that an appointment is not final until the probationary period is over, and the probationary period is part of the hiring process for employees. A probationer is still an applicant for a finalized appointment to a particular position as well as to the federal service. Until the probationary period has been completed a probationer has the burden to demonstrate why it is in the public interest for the Government to finalize their appointment to the civil service.

DOT FAA finds, that based on your performance you have not demonstrated that your further employment at the DOT FAA would be in the public interest. For this reason, the DOT FAA is removing you from your position with DOT FAA and the federal civil service effective today.

Rights and Procedures

The nature of your appointment does not provide you the right to appeal your termination under a negotiated or administrative grievance procedure, nor to appeal it to the Merit Systems Protection Board (MSPB) on its merits.

However, if you believe that this action is taken in whole or part on the basis of discrimination and you wish to file an EEO complaint, contact the Office of Civil Rights National Intake Unit through the voicemail only telephone line at 1-888- WK IT OUT (954-8688) or 1-800-877-8339 (TTY relay service). You may email the National Intake Unit at 9-ACR-EEOComplaint-Services@faa.gov or use https://my.faa.gov/org/staffoffices/acr/eo_complaint_program. The National Intake Unit accepts messages twenty-four (24) hours a day seven (7) days a week from anywhere you can access the Internet. Calls and emails are retrieved during the business workweek only. You must file your EEO complaint no later than forty-five (45) days from the incident or personnel action. If you would like additional information about the informal complaint process, please visit our website link at <https://my.faa.gov/org/staffoffices/acr/civil-rights-wjh-technical-center--washington-hq---eoo-complaint/eoo-rights-and-responsibilities-videos.html> to watch 7 short videos explaining the EEO Complaint process and your roles and responsibilities.

Finally, if you believe this action was taken against you in retaliation for making protected whistleblower disclosures, you may seek corrective action before the U.S. Office of Special Counsel, www.osc.gov.

For a brief period after your termination, you may still utilize the services of the Employee Assistance Program (EAP). This free and confidential program may be able to assist you with issues related to this personnel action, such as financial counseling. You can seek assistance by calling the 24-hour EAP Hotline at 1-800-234-1EAP or visiting the EAP website at www.MagellanAscend.com.

You are to surrender your FAA identification badge and any other Agency property in your possession following the attached Offboarding Guidance.

Your final paycheck, including any accrued leave time, will be issued on the next scheduled payday following your last day of employment. Your health insurance coverage will end the last pay period of your employment. Your coverage will continue at no cost to you for an additional 31 days. For further information regarding retirement and benefits, please contact the Office of Human Resource Management, Benefits Operations Center, at 855-322-2363, or you may email them at Benefits@faa.gov.

We appreciate your service to the Agency and wish you the greatest of success in your future endeavors. For a short period after your separation, you may seek the assistance of the Employee Assistance Program (EAP). This is a free and confidential service that includes referrals for financial counseling, etc. You can seek assistance by calling the EAP Hotline at 1-800-234-1EAP or visiting the EAP website at www.MagellanAscend.com.

EXHIBIT 2



United States
Department of
Agriculture

Farm and
Foreign
Agricultural
Services

Foreign
Agricultural
Service

Human Capital
Management
Division
Washington, DC
20250

March 14, 2024

MEMORANDUM FOR:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

FROM

M. LYNN MATHERLY
CHIEF HUMAN CAPITAL OFFICER

SUBJECT

**NOTIFICATION OF TERMINATION DURING
PROBATIONARY PERIOD**

REFERENCES:

5 U.S.C. § 7511
5 U.S.C. § 3321(a)
5 U.S.C. § 2102
5 CFR § 212.101
5 C.F.R. §§ 315.803, 315.804, and 315.806
Departmental Regulation 4020-250-1

This is to provide notification that the Agency is removing you from your position of [REDACTED] and federal service consistent with the above references.

On 10/6/2024, the Agency appointed you to the position of [REDACTED]. As documented on your appointment Standard Form 50 (SF-50), your appointment is subject to a probationary/trial period. The agency also informed you of this requirement in the job opportunity announcement for the position.

Guidance from the Office of Personnel Management (“OPM”) states, “An appointment is not final until the probationary period is over,” and the probationary period is part of “the hiring process for employees.”¹ “A probationer is still an applicant for a finalized appointment to a particular position as well as to the Federal service.”² “Until the probationary period has been completed,” a probationer has “the burden to demonstrate why it is in the public interest for the Government to finalize an appointment to the civil service for this particular individual.”³

The Agency finds, based on your performance, that you have not demonstrated that your further employment at the Agency would be in the public interest. For this reason, the Agency informs

¹ OPM, [Practical Tips for Supervisors of Probationers](#).

² See U.S. Merit Systems Protection Board Report to the President and Congress, [The Probationary Period: A Critical Assessment Opportunity](#) (August 2005)

³ *Id.*



you that the Agency is removing you from your position of [REDACTED] with the Agency and the federal civil service effective February 13, 2025, at 7:00 PM Eastern Time.

You may have a right to file an appeal with the Merit Systems Protection Board (MSPB) on the limited grounds set forth in 5 C.F.R. § 315.806. Any such appeal must be filed within 30 days of the effective date of this decision or 30 days after the date of your receipt of this decision, whichever is later. You should review MSPB regulations at 5 C.F.R. §§ 1201.14 and 1201.24 for instructions on how to file an electronic appeal and content requirements of the appeal, respectively. For more information, please visit www.mspb.gov or contact your local MSPB regional or field office at: Washington DC Regional Office, 1901 S. Bell Street, Suite 950, Arlington, Virginia 22202 or washingtonregionaloffice@mspb.gov.

We appreciate your service to the Agency and wish you the greatest of success in your future endeavors. If you have any questions, please contact TFAA-FAS-CHCO@usda.gov.

MYRNA MATHERLY Digitally signed by MYRNA MATHERLY
Date: 2025.02.13 19:05:38 -06'00'

M. Lynn Matherly
CHIEF HUMAN CAPITAL OFFICER